



Arizona State Board of Pharmacy
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**THE ARIZONA STATE BOARD OF PHARMACY
HELD A REGULAR MEETING SEPTEMBER 27 AND SEPTEMBER 28, 2011
AT THE ARIZONA STATE BOARD OF PHARMACY OFFICE
PHOENIX, AZ**

MINUTES FOR REGULAR MEETING

AGENDA ITEM 1 – Call to Order – September 27, 2011

President Haiber convened the meeting at 9:00 A.M. and welcomed the audience to the meeting.

The following Board Members were present: President Steve Haiber, Vice President Dan Milovich, Jim Foy, Joanne Galindo, Kyra Locnikar, Dennis McAllister, John Musil, and Nona Rosas. The following Board Member was not present: Tom Van Hassel. The following staff members were present: Compliance Officers Rich Cieslinski, Ed Hunter, Sandra Sutcliffe, Dean Wright, Drug Inspectors Melanie Thayer and Ceasar Ramirez, Deputy Director Cheryl Frush, Executive Director Hal Wand, and Assistant Attorney General Elizabeth Campbell.

AGENDA ITEM 2 – Declaration of Conflicts of Interest

Due to having a “substantial interest” in the matter, Dr. Foy recused himself from participating under Arizona’s conflict of interest laws in the review, discussion, and proposed actions concerning Agenda Item 6, Schedule C, Special Request by Anthony Breeding.

Due to having a “substantial interest” in the matter, Dr. Foy recused himself from participating under Arizona’s conflict of interest laws in the review, discussion, and proposed actions concerning Agenda Item 12, Schedule F, Complaint #3951, Complaint #3986, Complaint #3988, Complaint #3991, Complaint #3999, Complaint #4002, Complaint #4004, and Complaint #4005.

Due to having a “substantial interest” in the matter, Mr. McAllister recused himself from participating under Arizona’s conflict of interest laws in the review, discussion, and proposed actions concerning Agenda Item 5, Schedule B, Non-Resident Permit for Meds at Home.

Due to having a “substantial interest” in the matter, Mr. McAllister recused himself from participating under Arizona’s conflict of interest laws in the review, discussion, and proposed actions concerning Agenda Item 12, Schedule F, Complaint #4001.

Due to having a “substantial interest” in the matter, Mr. McAllister recused himself from participating under Arizona’s conflict of interest laws in the review, discussion, and proposed actions concerning Agenda Item 16, Schedule J, Conference for Complaint #3955.

Due to having a “substantial interest” in the matter, Mr. Haiber recused himself from participating under Arizona’s conflict of interest laws in the review, discussion, and proposed actions concerning Agenda Item 5, Schedule B, Non-Resident Permit for Curascript SP Specialty Pharmacy.

Due to having a “substantial interest” in the matter, Mr. Haiber recused himself from participating under Arizona’s conflict of interest laws in the review, discussion, and proposed actions concerning Agenda Item 12, Schedule F, Complaint #3996 and Complaint #3997.

AGENDA ITEM 3– Approval of Minutes

Following a review of the minutes and an opportunity for questions and **on motion by Mr. Milovich and seconded by Dr. Musil**, the minutes of the Regular Meeting held on July 7, 2011 were unanimously approved by the Board Members.

AGENDA ITEM 4– Hearings/ Motions to Deem

Motion to Deem

#1 Holiday Rx

President Haiber opened the discussion by stating that this is the time and place for Consideration of the State’s Motion to Deem Allegations of the Complaint and Notice of Hearing Admitted in the Case of Holiday RX, Permit #Y005095, Case 12-0008-PHR.

President Haiber asked if the Permit Holder (Holiday RX) was present. The Permit Holder (Holiday RX) was not present.

President Haiber asked if the Board would like to make a Motion granting or denying the State’s motion to Deem Allegations Admitted.

On motion by Dr. Musil and seconded by Dr. Foy, the Board unanimously agreed to grant the State’s motion to Deem Allegations admitted.

On motion by Dr. Musil and seconded by Dr. Foy, the Board unanimously agreed to adopt all factual allegations in the Complaint as the findings of fact.

On motion by Dr. Musil and seconded by Dr. Foy, the Board unanimously agreed to adopt all of the alleged violations set forth in the Complaint as the Board's conclusions of law.

President Haiber asked if the Assistant Attorney General has any comments or recommendations as to the appropriate discipline to be imposed.

Ms. Campbell stated that in view of the allegations admitted the Board can impose any discipline that they feel appropriate.

President Haiber stated that the Board would now deliberate on the appropriate discipline to be imposed.

On motion by Dr. Musil and seconded by Ms. Rosas, the Board unanimously agreed to revoke the Permit Y005095 issued to Holiday RX. A roll call vote was taken. (Ms. Locnikar – aye, Dr. Musil- aye, Ms. Galindo – aye, Dr. Foy – aye, Ms. Rosas – aye, Mr. McAllister – aye, Mr. Milovich – aye, and Mr. Haiber – aye)

AGENDA ITEM 5– Permits and Licenses

President Haiber stated that all permits were in order for resident pharmacies and representatives were present to answer questions from Board members.

RESIDENT PERMITS

Florence Hospital at Anthem, LLC

Kimberly Baldwin Warren, Pharmacist in Charge, was present to answer questions from Board Members.

President Haiber opened the discussion by asking Ms. Baldwin-Warren to discuss the business plan of the hospital

Ms. Baldwin-Warren stated that the total square footage of the pharmacy would be 603 square feet. Ms. Baldwin-Warren stated that the hospital is licensed for 36 inpatient beds. Ms. Baldwin-Warren stated that the hospital would not be preparing any chemotherapy products. Ms. Baldwin stated that the pharmacy would be strictly an inpatient pharmacy and would not fill any outpatient prescriptions. Ms. Baldwin-Warren stated that they would be using a glove box to prepare the IV preparations.

Mr. Haiber asked if the floor plans have been revised. Ms. Baldwin-Warren replied yes and that the total square footage is 603 square feet.

Dr. Musil asked if they were using a glove box or a hood in the IV room for sterile product preparation. Ms. Baldwin-Warren stated that they would be using a glove box.

Dr. Musil asked if they had an anteroom. Ms. Baldwin-Warren stated that the IV room would also serve as the anteroom since they were using a glove box.

Dr. Foy asked if they would have any storage space in the pharmacy. Ms. Baldwin-Warren stated that they would not need a storage room since the medicines would be dispensed from the pharmacy and the floors would have Omnicell units.

Central Admixture Pharmacy Services, Inc. (CAPS)

Bill Jones, Senior Pharmacy Director, and Larry Weidner, Pharmacist in Charge, were present to answer questions from Board Members.

President Haiber opened the discussion by asking the applicants to describe the nature of their business.

Mr. Jones stated that they would be preparing IV admixtures. Mr. Jones stated that their floor plans consist of three distinct areas. There would be a front office, a Clean Room, and a warehouse section.

Mr. Jones stated that the prescriptions would be patient specific and would be prepared at the pharmacy and sent to the hospital.

Mr. Haiber asked how the prescriptions would be sent to the pharmacy. Mr. Jones stated that the prescription would be sent to the pharmacy electronically through the internet. Mr. Jones stated that the hospital would perform the initial screening and resolve any problems related to levels. Once the order is approved by the hospital pharmacist, the order will be sent to the CAPS pharmacy for preparation. Mr. Jones stated that the pharmacist at CAPS would deem if it is appropriate to compound the medication and would compound the medication. Mr. Jones stated that the pharmacist at CAPS would perform the final check on the completed product to ensure that it is compounded correctly.

Mr. Haiber asked how the products would be sent to the hospital. Mr. Jones stated that a courier service would be used initially. Mr. Jones stated that the hospitals would be located in town and they would make daily deliveries.

Dr. Musil asked how the prescriptions would be coming over the internet. Mr. Jones stated that they would be received as a prescription with allergies and medical conditions included with the information.

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Dr. Musil asked if they would be sent as a PDF file. Mr. Weidner stated that they would be sent as an electronic file.

Dr. Musil asked if the prescription would be sent as a true electronic prescription. Mr. Jones stated that the prescription would be sent by a pharmacist to their server by connecting to their internet server. Mr. Jones stated that the pharmacist at the hospital would have a password assigned to them to log onto the server.

Dr. Musil asked who has control over the passwords and if IP addresses would be monitored. Mr. Jones stated that the pharmacy director assigns the passwords.

Dr. Musil asked if they would be preparing any controlled substances. Mr. Jones stated that they would not be preparing any medications with controlled substances. Mr. Jones stated at this time they would only be preparing TPNs. Mr. Jones stated that they would possibly prepare antibiotic solutions in the future.

Mr. McAllister asked if the prescriptions would be transferred. Mr. Wand stated that they could establish an agreement under the shared services regulation.

Brisma Pharmacy LLC

Iboro Akpan, Owner and Pharmacist in Charge, was present to answer questions from Board Members.

President Haiber opened the discussion by asking Ms. Akpan to describe the nature of her business.

Ms. Akpan stated that she plans to open a long term care independent pharmacy. Ms. Akpan stated that the pharmacy is about 1500 square feet in size.

Mr. Haiber asked Ms. Akpan if this is the first pharmacy that she has owned. Ms. Akpan replied yes.

Mr. Haiber asked Ms. Akpan if she planned to do any sterile compounding. Ms. Akpan replied no.

Dr. Foy asked if there was adequate counter space in the pharmacy. Ms. Frush stated that the counter space would depend on the number of employees working in the pharmacy. Ms. Akpan stated that there would be one pharmacist and one technician working in the pharmacy.

Adelante Healthcare

Manuel Ferreiro, Chief Financial Officer, was present to answer questions from Board Members. Mr. Ferreiro stated that Lisa Sims, the Pharmacist in Charge, was unable to attend the meeting.

President Haiber asked Mr. Ferreiro to give a brief overview of the business. Mr. Ferreiro stated that this would be the first in-house for Adelante. Mr. Ferreiro stated that the pharmacy would be located in their Surprise facility. Mr. Ferreiro stated that a patient would need to be a patient of the health center in order to have prescriptions filled at the pharmacy.

Mr. Ferreiro stated that they would do minimal compounding and would prepare no sterile products.

Mr. Ferreiro stated that they would employ 2 pharmacists and 2 to 3 technicians. Mr. Ferreiro stated that they are aware that the pharmacist must be present in order to open the pharmacy.

Mr. Ferreiro stated that they plan to open the pharmacy on December 5, 2011. Mr. Ferreiro stated that the pharmacy hours would be from 7A.M. to 7 P.M. Monday through Friday and from 8 A.M. to 12 P.M. on Saturday.

Mr. Ferreiro stated that all controlled substances would be stored in locked cabinets.

Dr. Musil asked if this is a federally qualified facility. Mr. Ferreiro stated that is a federally qualified facility and they would be taking care of 340B patients.

Dr. Foy asked about the security of the pharmacy. Mr. Ferreiro stated that all pharmacy personnel would have a scan badge that would allow them entrance to the pharmacy.

Mr. Haiber asked who has control of the security system. Mr. Ferreiro stated that the facility manager sets the access code and the pharmacy manager would determine who has access to the pharmacy.

RESIDENT (In Arizona)

On motion by Mr. Milovich and seconded by Dr. Musil, the Board unanimously approved the resident applications listed below pending final inspection by a Board Compliance Officer.

Pharmacy	Location	Owner
The Medicine Shoppe	902 W. Rex Allen Dr., Willcox, AZ 85643	R and M Pharmacies, LLC
Walgreens Pharmacy #15162	3838 N. Campbell Ave., Suite #1109, Tucson, AZ 85719	Walgreen Arizona Drug Company
Florence Hospital at Anthem, LLC	4545 N. Hunt Highway, Florence, AZ 85132	Florence Hospital at Anthem, LLC
Central Admixture Pharmacy Services, Inc. (CAPS)	2750 S. 18 th Pl., Phoenix, AZ 85034	Central Admixture Pharmacy Services, Inc. (CAPS)
Brisma Pharmacy LLC.	590 N. Alma School, Suite 4, Chandler, AZ 85224	Brisma Pharmacy LLC
Adelante Healthcare	15351 West Bell Rd., Surprise, AZ 85374	Adelante Healthcare
Wilmot Family Healthcare Pharmacy	899 N. Wilmot Rd., Tucson, AZ 85711	Marana Health Center, Inc.

NON-RESIDENT PERMITS

On motion by Dr. Musil and seconded by Mr. McAllister, the Board unanimously approved the non-resident application listed below.

President Haiber was recused due to a conflict of interest.

Pharmacy	Location	Owner
CuraScript SP Specialty Pharmacy	5653 Stoneridge Dr., Pleasanton, CA 94588	CursScript, Inc.

On motion by Dr. Musil and seconded by Dr. Foy, the Board unanimously approved the non-resident application listed below.

Mr. McAllister was recused due to a conflict of interest.

Pharmacy	Location	Owner
Meds at Home	6225 Annie Oakley Dr., #300, Las Vegas, NV 89120	MAH Pharmacy, LLC

On motion by Mr. McAllister and seconded by Mr. Milovich, the Board unanimously approved the non – resident permits listed below.

NON-RESIDENT (Out of State)

Pharmacy	Location	Owner
El Rey Rx, Inc	5310 Whittier Blvd, Los Angeles, CA 90022 (O)	El Rey Rx, Inc.
T.S. Rx, Inc.	2301 Caroline St., Houston, TX 77004 (O)	T.S. Rx, Inc.
New York Rx, Inc	875 3 rd Ave. M-105, New York, NY 10022 (O)	New York Rx, Inc
Oncology Plus, Inc.	1072 E. Brandon Blvd. Brandon, FL 33511	Oncology Plus, Inc.
Crescent Healthcare, Inc.	11B Commerce Way, Totowa, NJ 07512	Crescent Healthcare, Inc.
Diplomat Pharmacy Services	325 W. Atherton Rd., Flint, MI 48507	Diplomat Pharmacy, Inc.
Northwest Health Systems, Inc.	1011 E. 2 nd Ave., Suite 6, Spokane, WA 99202	Northwest Health Systems, Inc.
Inverness Apothecary	195 Inverness Plaza, Birmingham, AL 35242	FH Investments, Inc.
Cardinal Health Pharmacy Services, LLC	184 Technology Dr., Irvine, CA 92618	Cardinal Health Pharmacy Services, LLC
Community Healthcare Services, Inc.	24747 Redlands Blvd., Suite D, Loma Linda, CA 92354	Community Healthcare Services, Inc.
Save DirectRx, Inc.	4590 Lockhill Selma, San Antonio, TX 78429 (O)	SaveDirectRx, Inc.
Diabetes Corporation of America Pharmacy	4701 Trousdale Dr., Nashville, TN 37220	Diabetes Corporation of America Pharmacy
Injured Workers Pharmacy, LLC	300 Federal Street, Andover, MA 01810	Injured Workers Pharmacy, LLC

(O) = Ownership Change

Wholesaler Permits

President Haiber stated that all permits were in order for resident wholesalers.

Resident Wholesalers

On motion by Dr. Foy and seconded by Mr. Musil, the Board unanimously approved the wholesaler permits listed below.

WHOLESALER	LOCATION	OWNER
Peterson's Home Care (Full Service)	1401 S. Joshua Ave., Parker AZ 85344	Peterson's Home Care
Allied Medical Supply (Full Service)	611 W. Desmond St., Winslow, AZ 86047	Allied Medical Supply
All Care Respiratory Services(Full-Service)	6901 E. 1 st St., Ste A., Prescott Valley, AZ 86314	Regency Medical Equipment, Inc.
Regency Medical Equipment (Full Service)	420 South 5 th Ave., Safford, AZ 85546	Regency Medical Equipment, Inc.
Sentry Home Health (Full Service)	5171 Cub Lake Rd., Show Low, AZ 85901	Regency Medical Equipment, Inc.
Carecore Medical (Full Service)	1203 F. Avenue, Douglas, AZ 85607	MedCorp International, Inc.
The Oxygen Store	18434 N. 99 th Ave., #3, Sun City, AZ 85373	Ritt Medical Group, Inc.
Active Care (Full Service)	4116 E. Superior Ave., Phoenix, AZ 85040	Regency Medical Equipment, Inc
Mountain Respiratory (Full Service)	306 W. Aero Dr., Payson, AZ 85541	Regency Medical Equipment, Inc
Allied Medical Supply (Full Service)	613 W. Desmond St., Winslow, AZ 86047	Allied Medical Supply
180 Medical Inc. (Full Service)	1725 W. University Dr., Ste, 111, Tempe, AZ 85281	180 Medical Inc.
Major Medical Supply (Full Service)	2430 W. Mission Ln., Phoenix, AZ 85021	Regency Medical Equipment, Inc.
Carecore Medical (Full Service)	4251 S. Station Master Dr., Tucson, AZ 85714	Regency Medical Equipment, Inc.
Owens & Minor Distribution, Inc. (Full Service)	405 N. 75 th Ave. #184, Tolleson, AZ 85353	Owens & Minor Distribution, Inc.

Manufacturer Permits

President Haiber stated that there was one manufacturer permit to approve. Mr. Haiber stated that the company is a repackager.

On motion by Mr. Milovich and seconded by Dr. Foy, the Board unanimously approved the Manufacturer permit listed below.

MANUFACTURER	LOCATION	OWNER
VHS of Phoenix, Inc.	2000 W. Bethany Home Rd., Phoenix, AZ 85015	VHS of Phoenix, Inc.

Pharmacists, Interns, Pharmacy Technicians, and Pharmacy Technician Trainees

President Haiber stated that all license requests and applications were in order.

On motion by Dr. Foy and seconded by Ms. Rosas, the Board unanimously approved the Pharmacists licenses listed on the attachments.

On motion by Dr. Musil and seconded by Dr. Foy, the Board unanimously approved the Intern licenses listed on the attachments.

On motion by Dr. Musil and seconded by Mr. Milovich, the Board unanimously approved the Pharmacy Technician and Pharmacy Technician Trainee applications listed on the attachments.

AGENDA ITEM 6 – Special Requests

#1 Brett Roberson

Brett Roberson appeared on his own behalf to request that the probation imposed on his pharmacist license per Board Order 07-0009-PHR be terminated. Lisa Yates with the PAPA program was also present.

President Haiber opened the discussion by asking Mr. Roberson why he was appearing in front of the Board. Mr. Roberson stated that he would like his probation terminated.

Mr. Haiber asked Mr. Roberson to give a brief overview of his time in the PAPA program. Mr. Roberson stated that it has been a life changing experience.

Mr. Milovich asked how it has changed his life. Mr. Roberson stated that he has learned life changing skills. Mr. Roberson stated that he now has a support group.

Dr. Foy asked Mr. Roberson what his plans are going forward to maintain recovery. Mr. Roberson stated that they would be the same. Mr. Roberson stated that he would attend meetings with his support groups.

Mr. Haiber asked Mr. Roberson if he is currently working. Mr. Roberson stated that he has worked for PharMerica the last 4½ years.

Mr. Haiber asked Mr. Roberson what his duties are at PharMerica. Mr. Roberson stated that the pharmacy is a long-term care pharmacy and he verifies orders and checks products.

Mr. Wand asked Mr. Roberson about his community service at Courtney Place. Mr. Roberson stated that he helped individuals with physical and mental disabilities. Mr. Roberson stated that the people he helped were working on daily living skills.

Mr. Wand asked Mr. Roberson if he thought the community service was beneficial. Mr. Roberson stated that he felt it was beneficial because it allowed him to get outside of himself and help others.

On motion by Mr. Haiber and seconded by Dr. Musil, the Board unanimously agreed to approve the request by Mr. Roberson to terminate the probation of his pharmacist license imposed by Board Order 07-0009-PHR.

#2 Anthony Breeding

Anthony Breeding appeared on his own behalf to request that the probation imposed on his pharmacist license per Board Order 07-0031-PHR be terminated. Lisa Yates with the PAPA program was also present.

President Haiber opened the discussion by asking Mr. Breeding why he was appearing in front of the Board. Mr. Breeding stated that he would like his probation terminated.

Mr. Haiber asked Mr. Breeding what happened to cause him to be required to enroll in the PAPA program. Mr. Breeding stated that while he was a student in Pharmacy School in Iowa he got a DUI. Mr. Breeding stated that his Intern license in Iowa was placed on probation and when he wanted to move to Arizona the Board approved his request and he joined the PAPA program.

Mr. Haiber asked Ms. Yates if PAPA supports his request. Ms. Yates stated that Mr. Breeding has been compliant throughout his contract.

On motion by Mr. McAllister and seconded by Mr. Milovich, the Board unanimously agreed to approve the request by Mr. Breeding to terminate the probation of his pharmacist license imposed by Board Order 07-0031-PHR.

#3 James Green

James Green appeared on his own behalf to request that the probation imposed on his pharmacist license per Board Order 08-0012-PHR be terminated.

President Haiber opened the discussion by asking Mr. Green why he was appearing in front of the Board. Mr. Green stated that at the last meeting his request to terminate his probation was tabled because he lacked a letter from his employer and that the Board should have received a letter from his employer.

Mr. Milovich noted that the letter from his employer was not a stellar recommendation. Mr. Green stated that his employer would like him to get licensed in other states and at this time he cannot because his license is on probation.

Mr. Haiber asked Mr. Green how long he has been working for his current employer. Mr. Green stated that he has worked for his current employer since April of 2008.

Mr. McAllister stated that even though the recommendation is not the most stellar recommendation it does fulfill the requirements of the order.

On motion by Mr. McAllister and Dr. Musil, the Board unanimously agreed to approve the request by Mr. Green to terminate the probation of his pharmacist license imposed by Board Order 08-0012-PHR.

#4 Khaja Nazimuddin

Khaja Nazimuddin appeared on his own behalf to request to take the NAPLEX exam for the fourth time.

President Haiber opened the discussion by asking Mr. Nazimuddin why he was appearing in front of the Board. Mr. Nazimuddin stated that at the last Board Meeting he asked the Board to extend his Intern license so that he would be able to take the NAPLEX exam and work on his H1B visa. Mr. Nazimuddin stated that he did not pass the exam and is requesting to take the NAPLEX exam a fourth time. Mr. Nazimuddin stated that he is not working at the time.

Dr. Foy stated that he noted that his scores were low in the areas of promoting health and health care information. Mr. Nazimuddin stated that he lacks test taking skills. Mr. Nazimuddin stated that he is taking a different approach this time. Mr. Nazimuddin stated that he has enrolled in a live NAPLEX class this time. Mr. Nazimuddin stated that it is a 52 hour course. Mr. Nazimuddin stated that he has also purchased the Pronto flash cards to help him study. Mr. Nazimuddin stated that he would also like the Board to extend his intern license so that he could work on his H1B visa.

A motion was placed on the floor by Dr. Foy and seconded by Mr. Haiber to approve Mr. Nazimuddin's request to take the exam a fourth time and to extend his Intern license until he takes the exam.

Ms. Campbell stated that Mr. Nazimuddin cannot ask to extend his intern license because it is not listed on the agenda.

Dr. Foy and Mr. Haiber withdrew their motion.

Mr. McAllister asked Mr. Nazimuddin to explain why he had told the Board that he was taking the exam on July 25th but took the exam at the beginning of August. Mr. Nazimuddin stated that he took the pre-NAPLEX exam and then decided to postpone the exam until he studied a little more. Mr. Nazimuddin stated that he had until the 15th of August to take the exam. He stated that he had every intention of passing the exam.

Mr. McAllister stated that he feels that if does not pass the exam this time that he would need to return to school for additional semester hours in the practice of pharmacy.

On motion by Mr. Haiber and seconded by Dr. Musil, the Board unanimously agreed to allow Mr. Nazimuddin to take the exam for a fourth time and if he does not pass the exam he must return to school for additional semester hours in the practice of pharmacy before requesting to take the exam a fifth time. A roll call vote was taken. (Ms. Locnikar – aye, Dr. Musil- aye, Ms. Galindo – aye, Dr. Foy – aye, Ms. Rosas – aye, Mr. McAllister – aye, Mr. Milovich – aye, and Mr. Haiber – aye)

AGENDA ITEM 7– License Applications Requiring Board Review

#1 Eric Boel

Eric Boel appeared on his own behalf to request to proceed with reciprocity. Simon Colgan Dunlap, Legal Counsel, for Mr. Boel was also present.

President Haiber opened the discussion by asking Mr. Boel to give a brief background on why he was appearing in front of the Board.

Mr. Boel stated that he graduated in 2000 from Drake University. Mr. Boel stated that on his last rotation in school he worked at a Medicap pharmacy which was a franchise pharmacy. Mr. Boel stated that he decided to own a business and purchased a pharmacy which was the worst mistake he made. He stated that he was 23 years old and ran the pharmacy in a laid back fashion.

Mr. Boel stated that he was also a firefighter. Mr. Boel stated that he would leave the pharmacy to go to the fire and would put up a sign in the pharmacy indicating that he would be back. Mr. Boel stated that the technicians were not supposed to dispense any medications while he was gone and the technician dispensed a prescription while he was gone. Mr. Boel stated that the Iowa Board conducted an investigation and found several other allegations which included poor recordkeeping.

Mr. Boel stated that in 2005 he was divorced and then remarried. Mr. Boel stated that he then became a better husband and dad. Mr. Boel stated that he now works in a pharmacy and his wife has attended nursing school.

Mr. Boel stated that he was placed on probation for 5 years by the Iowa Board and he has completed 4 years of the contract. Mr. Boel stated that he has an opportunity to work in Flagstaff and feels this would be a fresh start for his family.

Mr. Haiber asked Mr. Boel if his license is still on probation in Iowa. Mr. Boel stated that he just appeared in front of the Iowa Board and it was approved to end his probation. Mr. Boel stated that he has no paperwork at this time from the Board.

Mr. Milovich stated that there appeared to be some allegations about fraudulent billing and asked Mr. Boel if he could explain the allegations. Mr. Boel stated that the fraudulent billing occurred during the transition of the pharmacy to a new owner. Mr. Boel stated that he does not know how the prescriptions were billed or who entered the prescriptions.

Mr. Haiber asked Mr. Boel if the technicians had taken verbal orders for new prescriptions. Mr. Boel stated that in Iowa all technicians are certified and Iowa allowed technicians to take prescriptions.

Mr. Wand asked Mr. Boel how many stores he owned. Mr. Boel stated that at one point he owned three stores and merged all the stores into one. Mr. Boel stated that he then sold the store.

Dr. Foy asked Mr. Boel if he is currently working. Mr. Boel stated that he is working at a hospital.

Mr. Haiber asked Mr. Boel why he had no paperwork from the Iowa Board indicating that the probation had been terminated. Ms. Colgan Dunlap stated that the Iowa Board would not give Mr. Boel any paperwork until the Arizona Board made their decision.

Mr. Haiber stated that he felt that since the Board did not have any paperwork the Board could offer him a consent agreement for the remaining year and recommend that he is not a pharmacist in charge.

Ms. Locnikar suggested that the Board continue his Iowa agreement since he has not fulfilled the requirements.

On motion by Mr. Haiber and seconded by Mr. Milovich, the Board agreed to offer Mr. Boel a consent agreement for probation for one year based on successful completion of his Iowa agreement and that he provides proof to the Board of completion of his Iowa agreement and to remain in compliance with that agreement. During his probationary period, Mr. Boel cannot be a pharmacist in charge. A roll call vote was taken. (Ms. Locnikar – aye, Dr. Musil- aye, Ms. Galindo – nay, Dr. Foy – aye, Ms. Rosas – aye, Mr. McAllister – nay, Mr. Milovich – aye, and Mr. Haiber – aye)

Mr. McAllister stated that he voted against the agreement because he felt that he should not be licensed in Arizona until his record is clean.

Mr. Wand asked if the consent should be brought back to the next meeting for Board review.

On motion by Dr. Musil and seconded by Dr. Foy, the Board unanimously agreed to allow Mr. Wand to sign the Consent Agreement on behalf of the Board.

#2 Jason Roman

Jason Roman appeared on his own behalf to request to proceed with Pharmacy Technician Trainee licensure.

President Haiber opened the discussion by asking Mr. Roman about the nature of his request. Mr. Roman stated that he would like to apply for a technician license but he has had a felony conviction.

Mr. Roman stated that he is attending school at Bryman and has completed all of his technician classes and needs the pharmacy technician license to complete his extern rotations.

Mr. Roman stated that in 2002 he was convicted of aggravated assault. Mr. Roman stated that he was involved in a car accident while he was driving under the influence.

Dr. Musil asked Mr. Roman if he was convicted for driving under the influence. Mr. Roman replied that he was charged with aggravated assault because it was the stronger charge. Mr. Roman stated that he was imprisoned for 2 years and was placed on probation for 5 years. Mr. Roman stated that he completed all the required programs and was released from probation 2 years early.

Dr. Foy asked Mr. Roman what he has been doing since that time for employment. Mr. Roman stated prior to the incident he had worked at UPS for four years. Mr. Roman stated that he tried to go back to work at UPS because prior to his incarceration he was going to be a driver. Mr. Roman stated that UPS would not take him back as an employee. Mr. Roman stated that he has done construction work for the last five years operating heavy machinery.

Dr. Foy asked Mr. Roman why he wanted to pursue a career in pharmacy. Mr. Roman stated that he was interested in the medical field and had several friends that had completed the pharmacy program and liked working in the field. Mr. Roman stated that he decided to pursue the field and has completed all the courses with good grades. Mr. Roman stated that he needs the license to do his rotations and complete the program that he started.

Mr. Wand asked Mr. Roman if he has paid his restitution. Mr. Roman stated that he paid off the restitution in monthly payments and had taken care of paying the restitution right away.

On motion by Mr. McAllister and seconded by Ms. Locnikar, the Board unanimously agreed to approve the request by Mr. Roman to proceed with Pharmacy Technician Trainee licensure.

Mr. Haiber asked Mr. Roman if the Board can be assured that his behavior has changed. Mr. Roman stated that what had happened was not his normal behavior and he had made a wrong decision. Mr. Roman stated that he realizes his mistake and how his mistake affected other people.

AGENDA ITEM 8 – OnSite Rx – Remote automated dispensing in nursing homes

Terry Allard, Chief Pharmacy Officer, appeared on behalf of OnSite Rx to request a deviation from R4-23701.01 and R4-23-402 (A) (11) to allow remote automated dispensing in nursing homes.

Mr. Allard stated that OnSite Rx would like to place automated dispensing machines in nursing homes. Mr. Allard stated that he believes that the regulations would allow them to place the machines in the home and they are requesting a deviation for the final check of the completed product because the packet would be dispensed at the home. Mr. Allard stated that when a prescription is processed the pharmacist reviews the prescription and

verifies that the prescription is entered correctly and the pharmacist also reviews all the DUR information. Mr. Allard stated that once the prescriptions are reviewed the nurse is able to enter the patients name and a prescription packet is labeled with the patients name and medications. The prescription packet prints at the remote site and the nurse reviews the packet before dispensing to the patient.

Dr. Musil asked if any Board Members took a tour of the facility. Sandra Sutcliffe, Compliance Officer, took a tour of the facility and wrote a summary for the Board Members.

Ms. Sutcliffe stated that she reviewed the filling of the canisters that are sent to the nursing homes to place in the machine. Ms. Sutcliffe stated that there are three barcode checks for the canisters. Ms. Sutcliffe stated that the barcodes help insure that the correct drug and strength are placed in the canister. Ms. Sutcliffe stated that a security seal is placed on the canister prior to shipping.

Ms. Sutcliffe stated that she reviewed the procedures for nursing access. Ms. Sutcliffe stated that there are procedures in place concerning the canisters and the returning of the canisters once emptied. Ms. Sutcliffe stated that there are reports for maintaining the inventory within the canisters. Ms. Sutcliffe stated that the canisters are micro-chipped so that a canister can be placed anywhere in the machine.

Mr. Haiber asked if there are error checks in place. Mr. Allard stated that the pharmacist scans the stock bottle to ensure that they have the right drug. Mr. Allard stated at the home the nurse receives a packet from the machine that lists the description of the tablet or capsule and the markings on the tablet or capsule. Mr. Allard stated that the canisters are specific for the size and shape of the drug. Mr. Allard stated that if the size and shape are not correct the canister would not dispense the medication.

Dr. Foy asked if every stock bottle used to fill the canister is left for visual check. Mr. Allard replied yes.

Ms. Rosas asked about shipping canisters to the nursing homes. Mr. Allard stated that the microchip would track the canister and would be recorded on the delivery manifest. Mr. Allard stated that the nurse checks the canister in and the computer system will know where the canister has been moved.

Ms. Rosas asked if they would be transporting controlled substances. Mr. Allard replied yes.

Dr. Musil asked if 5 canisters were sent to the home how are they identified. Mr. Allard stated that a written delivery manifest is sent with the canisters. Mr. Allard stated that there are two copies of the manifest. Mr. Allard stated that one copy of the manifest is kept at the home and the other copy is returned to the pharmacy. Mr. Allard stated that the delivery manifest is scanned so that they have a scanned copy of the manifest.

Dr. Musil asked what would happen if a canister went to the wrong home. Mr. Allard stated that the canisters are not home or patient specific. Mr. Allard stated that if the canister is placed in the machine the drug could be dispensed.

Dr. Musil asked about quality control. Mr. Allard stated that the wrong canister could be returned or the canister could be used if the drug is on the formulary. Mr. Allard stated that inventory reports run on a daily basis and they would show where the canisters are located.

Dr. Musil asked how the home or patients are billed for their medications. Mr. Allard stated that they are billed at the end of the month post-consumption.

Mr. Haiber asked how the order is loaded. Mr. Allard stated that nothing is dispensed until a pharmacist reviews the order. Mr. Allard stated that a nurse would sign into the system. Mr. Allard stated that the nurse would receive the daily doses for a patient and the medications would be dispensed in a packet for that patient. The machine prints the labeling on the packet and the nurse is able to view the medications in the packet.

Ms. Locnikar asked if the nurse or the pharmacist would be responsible if an error occurred. Mr. Allard stated that it would depend on where the error occurred in the process.

Mr. McAllister asked if there is an opportunity to re-dispense a medication to a patient. Mr. Allard stated that the nurse can go back to the kiosk and ask for an additional dose for the patient. Mr. Allard stated that the machine would ask why the nurse wants an additional dose and the nurse must enter a reason why she wants another dose.

Mr. McAllister asked if the nurse would apply a label. Mr. Allard stated that the nurse would not apply any labels. Mr. Allard stated that the machine prints all the directions on the packet.

Mr. McAllister asked how long they have been dispensing from the nursing homes in Texas and Pennsylvania. Mr. Allard stated that they have been dispensing from the homes in Texas for four years and in Pennsylvania for two years.

Mr. Wand pointed out that there are many advantages to using the machines. Mr. Allard stated that the main advantage is drug diversion is avoided. Mr. Allard stated that PRN medications are stored in the machine and can only be accessed by signing in and having the medication dispensed for the patient. Mr. Allard stated that the pharmacy controls access to the cards that are used to enter the room where the machine is located. Mr. Allard stated that there are cameras in the room and there are passwords for entry.

On motion by Mr. McAllister and Ms. Locnikar, the Board unanimously approved the deviation request by OnSite Rx for remote automated dispensing in nursing homes based on technological and experimental advances. The deviation is for R4-23-701.01 (1) and R4-23-402 (A) (11).

AGENDA ITEM 9 – Humana RightSource

Michael Taday, Pharmacist in Charge, and Michael Kuratko, Dispensing Supervisor, appeared on behalf of Humana RightSource to request a deviation from R4-23-402 (A) (11) to allow a reduced final verification for any solid dosage unit preparation fulfilled using their automated tablet counters.

President Haiber opened the discussion by asking the individuals present to describe their request.

Mr. Taday stated that they are asking to reduce the number of completed prescriptions that they verify from 100% to 3% for prescriptions that pass through the automated tablet counters. Mr. Taday stated that they have quality control procedures put in place.

Mr. Taday stated that the automated tablet counters are Scrip Counts. Mr. Taday stated that the counters have been used at Kaiser Permanente and NextRx. Mr. Taday stated that by using the machines there would be a decrease in tablet breakage and an increase in count accuracy (99.98%).

Mr. Taday stated that the counters can identify the tablet by size and shape. Mr. Taday stated that the tablets are counted twice by a double photo eye. Mr. Taday stated that if there is a discrepancy the vial is rejected and sent to exceptions. Mr. Taday stated that if there are three incorrect counts the cell will shut down.

Mr. McAllister asked the representatives to describe the process from the beginning to the end. Mr. Kuratko stated that an inventory technician would pull the drug and place the required quantity in a tote to take to the bulk up station. The pharmacist would perform a pre-check on the bottles for replenishment. Mr. Kuratko stated that a technician would begin the replenishment process by scanning each bottle and placing the contents in a replenishment container. The container then would be delivered to a pharmacist who would perform a visual check. The pharmacist would lock the cell with a zip tie. Once the pharmacist checks the barcodes and views the product the pharmacist indicates that the product is ready to dispense. The pharmacist who checks the products initials would be captured. Mr. Kuratko stated that the product would then go to the dispensing cell location and the technician would scan the cell and bottle and their badge. If the cell and bottle scan match, then the cell will open and the tablets can be placed in the cell.

Mr. Taday stated that a label would be created by the counter because a pharmacist has already approved the prescription. Mr. Taday stated that if there is a problem with the label the reader would reject the bottle and the bottle would be sent to exceptions to be verified by a pharmacist. Mr. Taday stated that the bottles are in a puck that travels to the cell where it will be filled. Mr. Taday stated that there is no chance for stray tablets to enter the bottles. Mr. Taday stated that if there is a miscount the counter will reject the bottle. Mr. Taday stated that all contents of the vial are imaged. Mr. Taday stated that if there is a problem with the imaging the bottle would be sent to exceptions. Mr. Taday stated that they are requesting that the Board allow them to send 3% of the prescriptions to the pharmacist for quality manual checks. Mr. Taday stated that the technicians would

pull some of the bottles off the line for sample inspection.

Dr. Musil asked what percentage of the prescriptions would be filled through the automated tablet counters. Mr. Taday stated that 60% would be filled through the automated tablet counters and the remaining 40% would be manually filled or pre-filled.

Dr. Foy asked how they would determine what 3% would be verified by the pharmacist. Mr. Taday stated that they would be able to choose what vials would go to the pharmacist for verification. Mr. Taday stated that they plan to send samples from recently replenished cells. Mr. Taday stated that they are able to calculate with the system when the drug would dispense. Mr. Taday stated that they plan to take two to three samples when a new drug is dispensed. Mr. Taday stated that the rest of the vials would be selected randomly.

Mr. McAllister asked if there any issues in the work flow from the stock shelf to the replenishment area. Mr. Taday stated that if there was an error it would be caught because there are 2 pharmacist checks in that process. Mr. Taday stated that the inventory associate pulls the product and the technician does a scan and visual check, so an error could be at this point. Mr. Taday stated that the pharmacist also scans the barcode and does a visual check.

Mr. McAllister asked if they would be able to catch if there were mixed manufacturers. Mr. Kuratko stated that the technician at replenishment would catch the mixed manufacturers. Mr. Taday stated that the technician pulls the cotton out of the bottle and visually examines the product. Mr. Taday stated that the tablets are spread out on a tray that allows a visual check of the product because no tablets will be on top of each other.

Mr. McAllister asked what would happen if they identified a mix of tablets in the cell. Mr. Taday stated that if it is a risk to the patient the cell would be shut down. Mr. Taday stated that if the order is still in the facility it would be pulled and visually checked. Mr. Taday stated that if the package has left the facility they would contact the patient proactively and reship the appropriate medication if necessary.

Mr. Haiber asked about the process where the medication is taken from the manufacturer's bottle to the replenishment container. Mr. Kuratko stated that the technician opens up the bottle and pours the medication into the tray. Mr. Kuratko stated that the technician pours the medication into the tray and removes any cotton fibers and broken tablets. The medication is poured from the tray into the replenishment container via a funnel. Mr. Kuratko stated that the pharmacist authorizes the release of the tray into the container.

Mr. Haiber asked if the location placement of the cell is always the same. Mr. Taday replied yes and that it is critical to the process. Mr. Taday stated that there is one drug per cell. Mr. Taday stated that the technician uses a hand held scanner to scan the cell and the bulk container and if it is not correct the cell will not open.

Mr. Haiber asked if there would be an issue with stray tablets. Mr. Taday stated that the counters do not count in advance. Mr. Taday stated that the medication is counted when

the vial is in place. Mr. Taday stated that the medication comes from a dedicated location and not a common chute.

Mr. Haiber asked how many samples the technicians would pull from the line. Mr. Taday stated that they would pull one to two percent. Mr. Taday stated that they would increase the sample size if there are any issues.

Mr. Haiber asked how the location would be secured. Mr. Taday stated that entry would be by secure badges.

Mr. McAllister asked when they planned to start the process. Mr. Taday stated that they plan to start in February.

On motion by Mr. Haiber and seconded by Mr. McAllister, the Board unanimously approved the deviation request by Humana RightSource to allow a reduced final verification for any solid dosage unit preparation fulfilled using their automated tablet containers. They must submit a report to the Board Office 6 months after beginning the process and include any consumer complaints that occurred during that period. The deviation is for R4-23-402 (A) (11) and is based on technological and experimental advances.

AGENDA ITEM 10 – Banner Good Samaritan Medical Center Pharmacy

Butch David, Pharmacy Director, appeared on behalf of Banner Good Samaritan Medical Center Pharmacy to request a deviation from R4-23-653 (E) and (I) to allow verification of automated dispensing cabinets by pharmacy technicians utilizing technology scanning systems to ensure accuracy.

President Haiber opened the discussion by asking Mr. David about his request. Mr. David stated that they would like to eliminate the step where a pharmacist approves the drug that is removed by the technician using a bar code scanner. Mr. David stated that the pharmacist would still enter the drug to the formulary process. Mr. David reviewed the process with the Board Members.

Mr. Haiber asked what could go wrong in the process. Mr. David stated that if the technician does not follow procedures an error could occur. Mr. David stated that the technicians would be trained. Mr. David stated that the technicians would be told that if they do not follow procedures they could be terminated due to gross negligence of duties. Mr. David stated that they would be able to audit the procedure to ensure that all steps are being followed.

Mr. Haiber asked if there could be any other errors. Mr. David stated that if the technician did not follow procedures and an error was made there is a final check by the nurse prior to administration.

Mr. Haiber asked if the medication used in the machines are unit dose. Mr. David stated that they would be using manufactured unit doses in the system.

Mr. McAllister asked if this deviation would be for all the Banner hospitals or just Banner Good Samaritan. Mr. David stated that the deviation is just for Banner Good Samaritan.

On motion by Mr. McAllister and seconded by Mr. Milovich, the Board unanimously approved the deviation request by Banner Good Samaritan Medical Center Pharmacy to allow verification of automated dispensing cabinets by pharmacy technicians utilizing technology scanning systems to ensure accuracy. The deviation is for R4-23-653 (E) and (I) and is based on technological and experimental advances.

AGENDA ITEM 11 – Reports

Executive Director Report

Renewals

Mr. Wand stated that the renewal process has begun and permit holders and license holders may renew online or mail their renewal forms to the office. Mr. Wand stated that due to printing issues the renewal cards went out after the renewal process began online.

Budget Issues

Mr. Wand reviewed the financial reports with the Board Members. Mr. Wand stated that there is a compliance officer position available, but he would not be able to hire the position without approval due to the hiring freeze.

Audit

Mr. Wand stated that the Board is currently undergoing a financial audit.

NABP

Mr. Wand stated that Ms. Rosas, Mr. McAllister and Mr. Haiber have been appointed to serve on NABP committees.

Annual Report

Mr. Wand stated that the Annual Report has been submitted to the Governor's Office and a copy is included in the Board book and can be found on the Board's website.

Deputy Director Report

Ms. Frush introduced Ceasar Ramirez , the new Drug Inspector for the Tucson area.

Ms. Frush reviewed the Compliance Officers Activity Report and the Drug Inspector Report with the Board Members.

During the months of June, July, and August the Compliance Staff issued letters for the following violations:

Controlled Substance Violations

1. Controlled Substance Overage -8
2. Controlled Substance Shortage -5
3. Incomplete Controlled Substance Inventory – Did not count all NDC numbers – 1
4. Dispensed CII on photocopied blanks with no wet signature - 1

Documentation Violations

1. Failure to document medical conditions – 2
2. Failure to document counseling – 5
3. Failure to document maintenance of mechanical storage devices – 4
4. Failure to sign daily log book – 1

Pharmacy Violations

1. Outdated Products in Pharmacy (RX and/or OTC) - 2
2. Failure to have current license renewal at site - 3

The following areas were noted on the inspection reports for improvement:

1. Documentation of counseling

Areas outside the inspection reports that may be of interest:

1. Immunizations – Interns must be supervised by a certified immunization pharmacist
2. Permits must be posted. Licenses must be maintained at site.

PAPA Report

Lisa Yates was present to represent the PAPA program. Ms. Yates stated that there are a total of fifty-three (53) participants in the PAPA program. Ms. Yates stated that three participants have completed the program and eight new participants have entered the program. Ms. Yates stated that one contract is pending until the participant completes the inpatient treatment program. Ms. Yates stated that many of the new participants are confidential members. Ms. Yates stated that there are 14 confidential members.

AGENDA ITEM 13 – Consent Agreements

President Haiber asked Board Members if there were any questions or discussions concerning the consent agreements. Executive Director Hal Wand indicated that the consent agreements have been reviewed and approved by the Attorney General’s Office and have been signed.

On motion by Mr. McAllister and seconded by Mr. Milovich, the Board unanimously agreed to accept the following consent agreements as presented in the meeting book and signed by the respondents. The consent agreements are listed below:

Michael Kellam	-	12-0001-PHR
Daniel Luttrull	-	12-0002-PHR
Priscilla Ofori-Kyei	-	12-0003-PHR
Russell Newman	-	12-0005-PHR

Andrea Stump	-	12-0006-PHR
Thomas Dalkin	-	12-0007-PHR

A roll call vote was taken. (Ms. Locnikar – aye, Dr. Musil- aye, Ms. Galindo – aye, Dr. Foy – aye, Ms. Rosas – aye,Mr. McAllister – aye, Mr. Milovich – aye, and Mr. Haiber – aye)

AGENDA ITEM 14 – Pharmacy Technician Trainee Requests for Approval to Reapply for Licensure

President Haiber stated that Mr. Wand has reviewed the requests and has approved the individuals for one additional two year period.

On motion by Dr. Foy and seconded by Dr. Musil the Board unanimously approved the requests of the Pharmacy Technician Trainees listed below to proceed with the reapplication process. The pharmacy technician trainee may reapply for an additional two years as a pharmacy technician trainee one time.

Pharmacy Technician Trainee Requests to reapply for licensure

Mona Mikhail	Cody Ross	Sherece Lucas
Syon Jones	Heather Napper	Farah Raheem
Cynthia Helm	Laurie Dragone	Shirina Smith
Amanda Frary	Sonny Marruffo	Brianne Gleming
Victor Martinez	Diana Kung	Dessirae Miguel
Amie Cooke	Sommer Cordova	Kelli Barr
Janette Contreras	JoAnna Ramos	Joyce Frango
Kim Carroll	Jose Soto	Minh Tong
Cynthia McMurtry	Jesse Barajas	Joseph Gonzalez
Gabriela Torres	Tyler Ruddy	Pamela Larson
Ame Patel	Kevin Nalker	Raina Salcido
Ruth Draeger	Rene Rainey	Timothy McCormick
Megan Quinn	Janel Chavez	Tyler Stromberg
Amy McElhaney	Mariana Tapia	Lois Thornton
Alisa Breiling	Tuan Lau	Robert Matthews
Mabel Fong	Angelie Nguyen	Lydia Salazar
Kol Houston	Roger Scott	Fernanda Lizarraras
Elizabeth Jolicoeur	Lisa Ostwind	Virgil Bryant
Colleen Boyer	Joy Parge	Jessica Hernandez
Nicole Sulski	Dustin Evenson	Sierra Parsons
Earl Stokes Jr.	Curtis Nelson	Deborah Matyas
Sheryl Harmon	Nina Duran	Tamara Kwiatkowski
Dale Patterson	Joel Rangel	Drue Miller
Adriana Carrasco	Richard Orey	Luis Alvarez III
Richard Kies	Christine Ploharski	Nicole McBride
Melony Clark	Wendy Murrieta	Michael Smith
James Norman	Marisa Velasquez	Ricky Ricci
Chelsea Wurster	Christopher Van Lent	Timothy Voris
Michael Ottenberg		

AGENDA ITEM 15 – Proposed Rules and Statutes

President Haiber opened the discussion by asking Mr. Wright to give a brief overview of the rules package.

Mr. Wright stated that hearings were held on September 6, 2011 for the two rule packages. Mr. Wright stated that the rule packages would be placed on GRCC's January meeting agenda for final approval and the rules would go into effect in March

Pharmacist – Administered or Pharmacy Intern Administered Immunizations

Mr. Wright stated that one change has been made in this rule changing the renewal time frame from 2 years to 5 years which would save the Board money. Mr. Wright stated that the Board needs to approve the Notice of Final Rulemaking and the Economic Impact Statement.

Drug Therapy Management

Mr. Wright stated that the Board needs to approve the Notice of Final Rulemaking and the Economic Impact Statement.

On motion by Mr. Milovich and seconded by McAllister, the Board unanimously agreed to allow Mr. Wright to proceed with the rulemaking packages.

AGENDA ITEM 17 – Board of Pharmacy Update in each issue of Arizona Journal of Pharmacy

President Haiber asked Mr. Wand if he would like to address this agenda item.

Mr. Wand stated that the Arizona Pharmacy Alliance asked if the Board was interested in providing an update in each issue of the Arizona Journal of Pharmacy. Mr. Wand stated that the Board does have the NABP newsletter that is available to all licensees.

The Board Members agreed to provide an update in the Arizona Journal of Pharmacy since some news may reach pharmacists earlier than waiting for the NABP newsletter.

AGENDA ITEM 18 – Arizona Community Pharmacy Committee Request

The Arizona Community Pharmacy Committee representative was unable to attend the meeting and will ask to be placed on a future agenda.

AGENDA ITEM 19 – Donald Steven Merkel – Complaint #4008

President Haiber asked Mr. Merkel why he was appearing in front of the Board.

Mr. Merkel stated that he was a pharmacist that was licensed in both California and Arizona. Mr. Merkel stated that in 1996 he went into treatment for drug diversion.

Mr. Merkel stated that two years ago he relapsed and went into treatment again. Mr. Merkel stated that the California Board stated that he was not following his treatment and he was asked to surrender his license. Mr. Merkel stated that he has a license in Arizona and wants to work in Arizona.

Mr. McAllister asked Mr. Merkel to review the dates with him. Mr. Merkel stated that he went into treatment in 1996. Mr. Merkel stated that he relapsed in 2010 when he drank five beers.

Mr. Merkel stated that in 2005 he was on pain medication and was monitored while he took the medication. Mr. Merkel stated that in 2008 he was on medication for osteomyolitis.

Mr. McAllister asked Mr. Merkel if he surrendered his California pharmacist license. Mr. Merkel stated that his license was on probation and he subsequently surrendered his license.

Mr. Haiber asked Mr. Merkel when he surrendered his license. Mr. Merkel stated that he surrendered his license last year.

Mr. Haiber asked Mr. Merkel if he notified the Arizona Board. Mr. Merkel replied that he did not. Mr. Merkel stated that he has no excuses. Mr. Merkel stated that he was faced with the shame and guilt of surrendering his license. Mr. Merkel stated that after he surrendered his license he went to Alaska and painted houses.

Mr. McAllister asked Mr. Merkel about the incident where he was arrested for a DUI. Mr. Merkel stated that in 2008 he was suffering from osteomyolitis. Mr. Merkel stated that he had taken prescription medications and had fallen asleep in his truck. Mr. Merkel stated that he was charged with being under the influence of a controlled substance.

Mr. McAllister asked if the medication that Mr. Merkel took was prescribed for him by a doctor. Mr. Merkel stated that the medication was not prescribed for him. Mr. Merkel stated that the medication in his truck were his mother-in-laws. Mr. Merkel stated that she had passed away and he was taking the medication to the pharmacy to be destroyed. Mr. Merkel stated that he took some of the medication from her bottles.

Dr. Foy asked Mr. Merkel if he intended to return the medication for destruction. Mr. Merkel stated that his intent was to return the medication.

Dr. Foy asked him why he did not take the medication into the pharmacy at the beginning of the day. Mr. Merkel replied that he was late to work.

Mr. Haiber asked about the pills lying on the floor of the truck. Mr. Merkel stated that he took the pills out and when he fell asleep he spilled them on the floor.

Ms. Campbell reviewed the options the Board could consider in this case.

On motion by Mr. McAllister and seconded by Mr. Milovich, the Board unanimously agreed to offer Mr. Merkel a Consent Agreement for surrender of his license. If the Consent Agreement is not signed, then the case would proceed to Hearing.

AGENDA ITEM 20 – November Board Meeting Date

President Haiber stated that Mr. McAllister would not be able to attend the second day of the meeting, but has decided that he would miss the second day of the meeting.

The Board Meeting date for November will remain the same.

AGENDA ITEM 21- Call to the Public

President Haiber announced that interested parties have the opportunity at this time to address issues of concern to the Board; however the Board may not discuss or resolve any issues because the issues were not posted on the meeting agenda.

Roger Morris came forth to update the Board on the lawsuit that was filed as a result of the sweeps. Mr. Morris stated that it was determined that it was not a tax and that they could sweep the funds. Mr. Morris stated that they have filed a petition to review the outcome.

AGENDA ITEM 23 – Discussion of Items to placed on a future meeting agenda

President Haiber asked if there were any items that Board Members would like to discuss at a future meeting.

Mr. McAllister asked if the Board Staff could prepare a Consent Agenda for Board Member approval and any items could be pulled from the Consent Agenda for discussion. Ms. Locnikar agreed.

The meeting recessed at 3:00 P.M.

AGENDA ITEM 1 – Call to Order – September 28, 2011

President Haiber convened the meeting at 9:00 A.M. and welcomed the audience to the meeting.

The following Board Members were present: President Steve Haiber, Vice President Dan Milovich, Jim Foy, Joanne Galindo, Kyra Locnikar, Dennis McAllister, John Musil, and Nona Rosas. The following Board Member was not present: Tom Van Hassel. The following staff members were present: Compliance Officers Rich Cieslinski, Ed Hunter, Sandra Sutcliffe, Dean Wright, Drug Inspectors Melanie Thayer and Ceasar Ramirez, Deputy Director Cheryl Frush, Executive Director Hal Wand, and Assistant Attorney General Elizabeth Campbell.

AGENDA ITEM 7– License Applications Requiring Board Review

#3 Eugene Steiner

Eugene Steiner appeared on his own behalf to request to proceed with reciprocity.

President Haiber opened the discussion by asking Mr. Steiner why he was appearing in front of the Board.

Mr. Steiner stated that he would like to reciprocate to Arizona. Mr. Steiner stated that his license was disciplined in California. Mr. Steiner stated that he owned two pharmacies in California with two other pharmacists. Mr. Steiner stated that he was disciplined for two incidences.

Mr. Steiner stated that in 1989 he filled a prescription for a regular patient for Mellaril and did not have the original prescription. Mr. Steiner stated that the patient told him that she would send him the prescription. Mr. Steiner stated that he was not aware that she did not have a prescription. Mr. Steiner stated that some how the Board got hold of the inner bottle that did not have a label and disciplined him for not labeling the prescription.

Mr. Steiner stated that the second incident occurred when he was not aware that the pharmacist working at one of the other stores was a user and was ordering excessive quantities of Dilaudid. Mr. Steiner stated that the pharmacist staged a robbery and the dilaudid was stolen. Mr. Steiner stated that there were no invoices in the pharmacy for the dilaudid. Mr. Steiner indicated that he was disciplined because he was the owner and the pharmacist in charge at that store.

Mr. Haiber asked Mr. Steiner what states he holds licenses. Mr. Steiner stated that he is licensed in California and Nevada.

Mr. Haiber asked if these licenses are in good standing. Mr. Merkel replied yes.

Mr. Milovich asked Mr. Steiner when he last practiced. Mr. Steiner stated that he has worked the last 8 years at Town Center Pharmacy in California as a consultant for their Probiotic products. Mr. Steiner stated that he did fill some prescriptions during that time period. Mr. Steiner stated that he also hosted a radio show on medical concerns at a local radio station.

On motion by Mr. McAllister and seconded by Mr. Milovich, the Board unanimously approved Mr. Steiner's license application to proceed with reciprocity.

AGENDA ITEM 12 – Consideration of Complaints on Schedule “F”

The Consumer Complaint Review Committee did not meet due to quorum issues. The full Board will review the complaints and determine the outcome.

Complaint #3951

Dr. Foy was recused due to a conflict of interest.

On motion by Mr. McAllister and seconded by Dr. Musil, the Board unanimously agreed to dismiss the complaint.

Complaint #3958

On motion by Mr. McAllister and seconded by Mr. Milovich, the Board unanimously agreed to issue an Advisory Letter to the pharmacist concerning unprofessional conduct.

Complaint #3959

On motion by Mr. McAllister and seconded by Mr. Milovich, the Board unanimously agreed to issue an Advisory Letter to the pharmacy technician concerning unprofessional conduct.

Complaint #3960

On motion by Mr. McAllister and seconded by Mr. Milovich, the Board unanimously agreed to issue an Advisory Letter to the pharmacist concerning unprofessional conduct.

Complaint #3961

On motion by Mr. McAllister and seconded by Mr. Milovich, the Board unanimously agreed to issue an Advisory Letter to the pharmacy technician concerning unprofessional conduct.

Complaint #3962

On motion by Mr. McAllister and seconded by Mr. Milovich, the Board unanimously agreed to issue an Advisory Letter to the pharmacy technician concerning unprofessional conduct.

Complaint #3977

A motion was placed on the floor by Mr. Haiber and seconded by Ms. Galindo to have the pharmacist and technician appear for a conference. A roll call vote was taken. (Ms. Locnikar – aye, Dr. Musil- nay, Ms. Galindo – aye, Dr. Foy – aye, Ms. Rosas – nay, Mr. McAllister – nay, Mr. Milovich – nay, and Mr. Haiber – aye). The motion failed.

Mr. Milovich stated that he does not feel that a conference is necessary because he feels that there is no further information to learn from a conference.

On motion by Mr. Milovich and seconded by Ms. Locnikar, the Board unanimously agreed to offer the pharmacist a consent agreement with the following terms: \$1,000

fine and 6 hours of continuing education (CE) on error prevention. The fine and CE must be completed in 90 days. If the consent is not signed, the case will proceed to hearing. The technician would be issued an advisory letter concerning the following of policies and procedures.

Complaint #3979

On motion by Ms. Locnikar and seconded by Dr. Musil, the Board unanimously agreed to dismiss the complaint.

Complaint #3980

On motion by Mr. Haiber and seconded by Ms. Rosas, the Board unanimously agreed to dismiss the complaint.

Complaint #3981

On motion by Ms. Locnikar and seconded by Dr. Musil, the Board unanimously agreed to dismiss the complaint.

Complaint #3982

On motion by Mr. Milovich and seconded by Mr. McAllister, the Board unanimously agreed to dismiss the complaint.

Complaint #3983

On motion by Mr. Milovich and seconded by Ms. Rosas, the Board unanimously agreed to dismiss the complaint.

Complaint #3984

On motion by Mr. McAllister and seconded by Ms. Galindo, the Board unanimously agreed to have the pharmacist appear for a conference.

Complaint #3985

On motion by Mr. Milovich and seconded by Ms. Galindo, the Board unanimously agreed to dismiss the complaint.

Complaint #3986

Dr. Foy was recused due to a conflict of interest.

On motion by Dr. Musil and seconded by Mr. McAllister, the Board unanimously agreed to have the pharmacist and pharmacy technician appear for a conference.

Complaint #3987

On motion by Dr. Musil and seconded by Ms. Locnikar, the Board unanimously agreed to dismiss the complaint.

Complaint #3988

Dr. Foy was recused due to a conflict of interest.

On motion by Mr. McAllister and seconded by Dr. Musil, the Board unanimously agreed to have the pharmacist and pharmacy technician appear for a conference.

Complaint #3989

On motion by Dr. Foy and seconded by Ms. Rosas, the Board unanimously agreed to dismiss the complaint.

Complaint #3990

On motion by Dr. Foy and seconded by Ms. Rosas, the Board unanimously agreed to dismiss the complaint.

Complaint #3991

Dr. Foy was recused due to a conflict of interest.

On motion by Mr. Milovich and seconded by Dr. Musil, the Board unanimously agreed to dismiss the complaint.

Complaint #3992

On motion by Mr. Milovich and seconded by Dr. Foy, the Board unanimously agreed to dismiss the complaint.

Complaint #3993

On motion by Mr. Milovich and seconded by Dr. Foy, the Board unanimously agreed to dismiss the complaint.

Complaint #3994

On motion by Mr. Milovich and seconded by Dr. Foy, the Board unanimously agreed to dismiss the complaint.

Complaint #3995

On motion by Mr. Milovich and seconded by Ms. Locnikar, the Board agreed to offer the pharmacist a consent agreement with the following terms: a fine of

\$1,000 (\$500 for each violation) and 6 hours of continuing education (CE) on error prevention. The fine and CE must be completed in 90 days. If the consent is not signed, the case will proceed to hearing.

There was one nay vote by Mr. McAllister.

Complaint #3996

President Haiber was recused due to a conflict of interest.

On motion by Mr. McAllister and seconded by Mr. Milovich, the Board unanimously agreed to dismiss the complaint.

Complaint #3997

President Haiber was recused due to a conflict of interest.

On motion by Ms. Rosas and seconded by Mr. Milovich, the Board unanimously agreed to dismiss the complaint.

Complaint #3998

On motion by Mr. McAllister and seconded by Ms. Rosas, the Board unanimously agreed to have the pharmacist appear for a conference.

Complaint #3999

Dr. Foy was recused due to a conflict of interest.

On motion by Ms. Locnikar and seconded by Mr. McAllister, the Board agreed to have the pharmacist appear for a conference.

There was one nay vote by Mr. Milovich.

Complaint #4000

On motion by Dr. Musil and seconded by Mr. McAllister, the Board unanimously agreed to have the pharmacist appear for a conference. The owner should also appear as a witness.

Complaint #4001

Mr. McAllister was recused due to a conflict of interest.

On motion by Mr. Milovich and seconded by Ms. Galindo the Board unanimously agreed to dismiss the complaint.

Complaint #4002

Dr. Foy was recused due to a conflict of interest.

On motion by Mr. McAllister and seconded by Mr. Milovich, the Board unanimously agreed to dismiss the complaint.

Complaint #4004

Dr. Foy was recused due to a conflict of interest.

A motion was placed on the floor by Dr. Musil to offer the pharmacist a consent agreement with the following terms: \$250 fine, 4 hours of continuing education on error prevention and 4 hours of continuing education of therapeutic substitution and the pharmacist would be placed on probation until the CE is completed. The motion was withdrawn by Dr. Musil.

On motion by Mr. McAllister and seconded by Ms. Locnikar, the Board agreed to have the pharmacist appear for a conference. There was one nay vote by Mr. Milovich.

Complaint #4005

Dr. Foy was recused due to a conflict of interest.

On motion by Mr. Milovich and seconded by Mr. McAllister, the Board agreed to dismiss the complaint.

There was one nay vote by Dr. Musil. Dr. Musil stated that he does have concerns about the flavoring of the product and the quantity that was dispensed.

Complaint #4008

This complaint was discussed as Agenda Item 19.

AGENDA ITEM 16- Conferences

Conference 1 – Complaint #3957

The following individuals were present to discuss the complaint:

Cody Stroh – Pharmacist – Respondent
Nicole Leiter – Pharmacy Supervisor – Witness
Christine Cassetta – Legal Counsel for Mr. Stroh

President Haiber asked Mr. Hunter to give a brief overview of the complaint. Mr. Hunter stated that the complainant stated that she had presented a prescription for Cytomel 5 mcg but received the generic Liothyronine 50mcg. The pharmacist that entered the data had misinterpreted the strength. He failed to catch the error when he verified the prescription. According to pharmacy records, the patient declined counseling. The patient took the overdose for nearly a year and had health issues. The error was also not caught by the professionals involved in the treatment of the symptoms of the overdose.

President Haiber asked Mr. Stroh to address the complaint. Mr. Stroh stated that he feels that you can learn from an incident like this. Mr. Stroh stated that he is extremely sorry and would like to convey that to the patient and her family. Mr. Stroh stated that he did not mean any harm to the patient. Mr. Stroh stated that he takes his position and title in extreme honor and takes pride in the fact that his patients leave with the correct medication and accurate information. Mr. Stroh stated that he has modified his verification and counseling processes. Mr. Stroh stated that he double checks the important parts of the prescription after his initial verification. Mr. Stroh stated that he asks open ended questions during counseling. During the consultation, Mr. Stroh stated that he asks the patient if they had the medication previously and if they have been on that strength previously. Mr. Stroh stated that in addition to the counseling changes he has required all staff to keep extremely accurate counseling log records, such as all new and copied prescriptions must be logged by the pharmacist. Mr. Stroh stated that he has stressed to all the technicians that this is a mandatory counsel state and that a pharmacist must log the counseling or denial prior to the technician giving the medication to the patient. Mr. Stroh stated that he hopes these changes prevent the likelihood of this happening again. Mr. Stroh stated that he has completed 2 hours of CE on error prevention. Mr. Stroh stated that he would like to apologize to the patient and her family.

Dr. Foy asked Mr. Stroh if the visual image of the prescription is available. Mr. Stroh stated yes.

Dr. Foy asked how many times the prescription was filled. Mr. Stroh stated that it was filled five times.

Dr. Foy asked if the technician entered the prescription. Mr. Stroh replied that he entered the prescription. Mr. Stroh stated that he normally does not enter the prescription so that there is a double check. Mr. Stroh stated that they were probably busy and the technician was busy, so he entered the prescription.

Dr. Foy asked Mr. Stroh if he was the verifying pharmacist on the subsequent fills. Mr. Stroh stated that he was not the verifying pharmacist on all the subsequent fills.

Dr. Foy asked if the image comes up on the screen during subsequent fills. Ms. Leiter stated that the image appears on the first fill. Ms. Leiter stated that the image does not appear on the screen for subsequent fills. Ms. Leiter stated that the pharmacist can access the prescription.

Dr. Foy asked if the viewing of the prescription is optional. Ms. Leiter stated that since the Power program has begun she cannot speak to as what the pharmacist sees on the screen. Ms. Leiter stated that she would need to research the issue to see if the pharmacist sees the image. Ms. Leiter stated that the pharmacist is no longer typing and verifying the prescription.

Dr. Foy asked Mr. Stroh how the counseling changes he has made would have caught this dosing error. Mr. Stroh stated that if a patient declines counseling he will ask the patient if they have had this strength before. Mr. Stroh stated that if time permits he would like to double check the profile

Mr. McAllister stated that he has concerns that a pharmacist would dispense a dose of cytomel with directions of twice a day dosing for a total of 100mcg daily. Mr. McAllister stated that the dosage should have triggered the pharmacist to look at the dose because it is a high dose. Mr. McAllister asked Mr. Stroh if pharmacists are trusting the computer too much. Mr. Stroh stated that he did not think the dose was too high because it was in the higher range of the therapeutic dose.

Ms. Cassetta stated that this prescription was not done through the Power program and was done at the store.

Mr. Haiber asked why the prescription has been assigned two prescription numbers.

Ms. Leiter stated that the prescription was updated due to a change of manufacturer.

Mr. Haiber asked if there was a prior history showing that the dose increased. Mr. Stroh stated that he now reviews the profile for previous medications. Mr. Stroh stated that the profile does not pop-up on the screen.

Mr. Haiber asked if the profile is easy to bring up on the screen. Mr. Stroh replied yes. Mr. Stroh stated that it takes a little longer to bring up the profile. Ms. Leiter stated that most of the front end verification is now done at another site where the pharmacist is not distracted.

Mr. Milovich asked if the patient ever complained to him about her symptoms. Mr. Stroh replied no and he had even counseled her on OTC products.

Mr. Milovich asked if the patient had any prescriptions filled to alleviate the symptoms that she was experiencing. Mr. Stroh replied no.

Ms. Galindo stated that she commends Mr. Stroh for his remorse but the error should have been caught the first time. Ms. Galindo stated that the public relies on the pharmacist to fill their prescriptions correctly. Mr. Stroh stated that he agrees and he has taken steps to ensure that the error does not occur again.

Dr. Musil asked Mr. Stroh how he counsels the patient. Mr. Stroh stated that he starts off by asking the patient if they know what the medication is for. Mr. Stroh stated that he asks open ended questions. Mr. Stroh stated that he asks if the doctor told them what to expect when taking the medication. Mr. Stroh stated that he asks if this is the strength that they should be taking and if the doctor is correct.

Dr. Musil asked Mr. Stroh if he talks to the patient about potential side effects. Mr. Stroh stated that he does.

Dr. Musil asked Mr. Stroh what are the side effects of the drug. Mr. Stroh replied weight loss, alopecia, and diarrhea.

Dr. Musil asked Mr. Stroh if he felt that 50mcg twice daily is an appropriate dose. Mr. Stroh stated that it is the top of the limit

Dr. Musil asked if the patient was told that heart palpitations are a side effect of the drug. Mr. Stroh stated that he was not the counseling pharmacist and the patient had declined counseling. Dr. Musil stated that he would not have left the patient leave the pharmacy without discussing the high dose.

Mr. Frank Verderame, Counsel for the Complainant, asked to address the Board. Mr. Verderame stated that he is speaking on behalf of his client because she was upset that the representatives for Walgreens stated that counseling was declined. Mr. Verderame stated that the patient did speak to the pharmacist concerning the size of the tablet. Mr. Verderame stated that the pharmacist told the patient that the tablets were a different size because they were an off brand version.

Ms. Rosas asked if the patient had to sign that she was counseled. Ms. Cassetta stated that the patient does not have to sign. Ms. Cassetta stated that the pharmacist must document counseling.

Mr. Haiber asked about the counseling sheet and no date documented on the sheet. Ms. Leiter stated that they use one sheet per date and each line is not dated.

Dr. Foy asked how often Mr. Stroh did all the steps on processing a prescription. Mr. Stroh stated that when the error occurred it was more common. Mr. Stroh stated that the procedure was that a technician entered the prescription, the pharmacist would verify the entry, a technician would fill the prescription, and the pharmacist would do a final check. Mr. Stroh stated that he believes that he was working with one technician and the technician may have been helping a customer, so he entered the prescription. Mr. Stroh stated that he mis-interpreted the dose.

Mr. Stroh stated that the under the Power program a pharmacist would not enter the prescription.

Dr. Musil asked how many hours the pharmacy is opened per week. Mr. Stroh stated that the store is open 24 hours a week. Mr. Stroh corrected his statement to say that the store is open 24 hours a day.

Dr. Musil asked Mr. Stroh what he does if he receives a prescription that he is not familiar with the drug. Mr. Stroh stated that he would look the medication up on Clinical Pharmacology.

Mr. Haiber asked about the DUR. Mr. Stroh stated that he does not recall what the DUR was since it has been two years.

Mr. Haiber asked Mr. Stroh what he would do if he saw a duplicate therapy alert today. Mr. Stroh stated that he would go to the patient profile to see what type duplicate therapy was flagged. Mr. Stroh stated that it could be a duplicate therapy due to the prescription being filled at a mail order site.

Dr. Foy asked about the DUR with a code of 36. Ms. Leiter stated that DUR36 is an insurance DUR and she is not sure what the number represents without researching the DUR code.

Mr. Haiber asked if Mr. Stroh needed to add any comments to override the DUR. Mr. Stroh stated at that time he did not. Mr. Stroh stated that the software has been updated and the pharmacist must now add a comment.

Mr. Haiber asked if a pharmacist can bypass a DUR. Ms. Leiter stated that the software has been updated and there are some drop down boxes for the pharmacist to select a comment or they can enter their own comment. Ms. Leiter stated that it is required on all major DURs and she can check to see if a comment is required on all DUR overrides.

On motion by Mr. McAllister and seconded by Mr. Haiber, the Board unanimously agreed to close the complaint with an Advisory Letter issued to the Pharmacist. The Board would like to open a complaint against the permit holder for the discrepancy in counseling documentation and against the counseling pharmacist, Michael Riley.

Mr. McAllister stated that he feels there is an endemic issue with DURs being overrode.

Dr. Foy asked that M. Pearson be asked to respond to the complaint as a witness because they overrode the insurance DUR.

Conference 2 – Complaint #3943

The following individuals were present to discuss the complaint:

David Martinez – Pharmacist – Respondent

Elaine Lox – Pharmacist – Respondent

Alicia Pallanes – Pharmacy Technician – Respondent

Don Featherstone – Pharmacy Supervisor - Witness

President Haiber opened the discussion by asking Mr. Hunter to give a brief overview of the complaint.

Mr. Hunter stated that Mr. Petersen was the compliance officer that investigated the complaint. Mr. Hunter stated that this complaint involves two incidences. Mr. Hunter stated that in the first incident the complainant stated that her prescription for Morphine Sulfate ER 30mg was filled incorrectly with Morphine Sulfate IR 30mg. The patient ingested 10 tablets of the incorrect medication. The pharmacist stated that the technician filled the prescription and he did not catch the error when he verified the prescription. The pharmacist stated that counseling was refused because the patient had the medication previously.

Mr. Hunter stated that in the second incident the patient stated that her prescriptions were filled incorrectly on 2/10/2011. The complainant stated that her prescription for Morphine Sulfate IR 15 mg was filled with Morphine Sulfate ER 30mg and the prescription for Morphine Sulfate ER 30 mg was filled with Morphine IR 15 mg. The

pharmacist stated that the prescriptions were filled by the technician and the pharmacist did not catch the error (mis-labeled) when she verified the prescription.

President Haiber asked the respondents to address the complainant. Mr. Featherstone stated that he would address the first incident. Mr. Featherstone stated that the pharmacist discovered the error and contacted the patient. Mr. Featherstone stated at that point patient had not taken any of the medication. Mr. Featherstone stated that the patient did not come for several days and went ahead and took some of the medication. Mr. Featherstone stated that the error was corrected when the patient returned the medication.

Mr. Featherstone stated that the second incident involved placing the labels on the wrong bottles. Mr. Featherstone stated that the directions on both bottles were the same.

Mr. Milovich asked if Mr. Martinez documented that he had called the patient. Mr. Martinez replied that he does not remember documenting that he called the patient.

Mr. Martinez stated that the patient had not taken any of the medication and did not return the medication that evening. Mr. Martinez stated that he thought about delivering the medication to the patient.

Mr. Milovich asked Mr. Martinez if he thought it would be prudent to document that he called the patient. Mr. Martinez replied yes.

Dr. Foy asked how the error was discovered. Mr. Martinez stated that he was counting and logging the CII medications.

Dr. Foy asked about the mis-labeling error. Ms. Lox stated that she was responsible for that error. Ms. Lox stated that the pharmacy technician entered and counted the prescription. Ms. Lox stated that she looks at the picture on the computer screen to verify that the drug matches the drug in the vial. Ms. Lox stated that she checks the hard copy and logs the prescription into the CII inventory book.

Dr. Foy asked Ms. Pallanes what her procedure is for labeling the bottles. Ms. Pallanes stated that she scans the prescription and enters the prescription. Ms. Pallanes stated that she scans the NDC code to ensure that she has the correct medication and she then counts the medication and labels the bottles.

Dr. Foy asked Ms. Pallanes if she scans the bottles before she counts the drug and does she can the bottles separately or does she scan both bottles at once.

Ms. Pallanes stated that she scans each bottle separately and she scans the bottle before she counts the drug.

Dr. Foy asked Mr. Featherstone if the company allows a technician to fill CII prescriptions. Mr. Featherstone stated that it is up to the pharmacy manager.

Mr. Haiber stated that he found it unusual that the patient did not come back right away considering that she was given the wrong strength and dosage form. Mr. Haiber asked Mr. Martinez if he works at that store every day. Mr. Martinez stated that he works 26 hours at the store and 14 hours at another store.

Mr. Haiber asked Mr. Martinez if he worked at that store the next day. Mr. Martinez replied that he worked the next morning and he told the pharmacy manager what happened and assumed the patient would return the medication that day.

Mr. Haiber asked if the patient had taken the medication before. Mr. Martinez replied the she had taken the medication before.

Mr. Haiber asked Mr. Martinez if he attempted to contact the patient again. Mr. Martinez replied that he did not remember calling the patient again.

Dr. Foy asked about the work flow process in the incident where the bottles were mis-labeled. Ms. Pallanes stated that she does not recall the particular incident. She stated that she does one bottle at a time and there is no way that she would have mixed up the bottles.

Dr. Foy asked Ms. Lox to describe the verification process. Ms. Lox states that she uses the stock bottle to insure that it matches the medication in the vial. Ms. Lox stated that she is not sure where the error occurred and there was an inconsistency in one of the steps.

Dr. Musil asked Mr. Martinez if he left the pharmacy manager any documentation concerning his follow-up with the patient. Mr. Martinez replied no that he was waiting for the patient to return the medication.

Mr. Haiber asked Mr. Featherstone what is the policy concerning self-discovery of errors. Mr. Haiber stated that the pharmacist is required to fill out an incident report. Mr. Featherstone stated that he was on vacation at the time and the report was sent to the office.

On motion by Mr. McAllister and seconded by Mr. Milovich, the Board unanimously agreed to issue a consent agreement to both pharmacists with the following terms: a fine of \$250 and 8 hours of continuing education (CE) on error prevention completed in 90 days. If the consent is not signed, the case will proceed to hearing. The pharmacy technician will be issued an Advisory Letter concerning the following of policies and procedures.

Dr. Foy stated that he feels that it is not adequate to state that they do not know what happened.

Mr. Haiber stated that a patient took the wrong medication due to an error.

Ms. Galindo stated that the ultimate responsibility of the pharmacist is to ensure that the patient gets the correct medication.

Conference 3 – Complaint #3955

The following individuals were present to discuss the complaint:

Dianne Tejani – Pharmacist – Respondent
Bryan Olenik – Pharmacy Supervisor - Witness
Robert Chelle – Legal Counsel for Ms. Tejani

President Haiber asked Ms. Sutcliffe to give a brief overview of the complaint. Ms. Sutcliffe stated that the Board Office received notification of the termination of a pharmacist due to the entry of prescriptions not authorized by the prescriber. The pharmacist in Charge provided a summary of the prescriptions entered by the pharmacist.

The review identified 139 unauthorized prescriptions impacting 53 patients. Ms. Sutcliffe stated that she contacted three physician offices. Ms. Sutcliffe stated that one doctor signed and provided information for four patients with a total of 31 prescriptions. The doctor indicated that he did not authorize any of the prescriptions identified by the pharmacist.

President Haiber asked the respondent to address the complaint. Mr. Chelle, legal counsel for Ms. Tejani, stated that Ms. Tejani was mainly a salesperson. Ms. Tejani's job was to get patients to use the mail order pharmacy. Mr. Chelle stated that if the patient said yes agreeing to switch to the mail order pharmacy a fax was sent to the doctor's office. Mr. Chelle stated that the verbal part is the issue. Mr. Chelle stated that Ms. Tejani did not go forward without authorization. Mr. Chelle stated that it is not conclusive if it happened or not. Mr. Chelle stated that it cannot be ascertained if a verbal authorization was given. Mr. Chelle stated that Ms. Tejani was employed for 6 months and switched about 4,000 prescriptions.

Ms. Tejani stated that she is licensed in three states and never had any complaints filed against her. Ms. Tejani stated that she is a caring and compassionate pharmacist.

Ms. Tejani stated that she can recall one issue in particular. Ms. Tejani stated that as far as the other allegations, she does not have any recollection or evidence to defend herself. Ms. Tejani stated that in this case she got wrapped up in the situation. Ms. Tejani stated that she was told to make every effort to satisfy the Hawaiian customers. Ms. Tejani stated that she was involved with this patient for two weeks trying to obtain their prescriptions. Ms. Tejani stated that she had numerous conversations with the patient. Ms. Tejani stated that it was not her intent to willfully violate any Arizona statutes. Ms. Tejani stated that she loved her job and the contact with the patients. Ms. Tejani stated that she had learned from this experience. Ms. Tejani stated that she has reviewed the Arizona laws. Ms. Tejani stated that it was never her intent to violate the law or pad any statistics.

Dr. Foy asked Ms. Tejani to describe her position. Ms. Tejani stated that she was an outreach pharmacist. Ms. Tejani stated that she contacted existing patients to explain their benefits. Ms. Tejani stated that she explained that economic factors for using mail order.

Dr. Foy asked Ms. Tejani to describe the process if the patient said yes. Ms. Tejani stated that if the patient said yes then the patient was asked permission to call their doctor and obtain new prescriptions with refills. Ms. Tejani stated that the doctor's office was faxed and they were given seven days to respond. Ms. Tejani stated that if the doctor did not respond the issue was bounced back to them and they would call the doctor to obtain a verbal prescription or find out why there was a holdup in approving the prescriptions. Ms. Tejani stated in this case she talked to the patients and they decided that they wanted to receive their prescriptions through the mail order. Ms. Tejani stated that she talked to the wife first and she decided that she would like to receive her prescriptions through the mail order. Ms. Tejani stated that she faxed the doctor and did not receive a reply after 7 days. Ms. Tejani stated that she called the patient to tell them that she had to call the doctor. Ms. Tejani stated that she spoke to the nurse and faxed a request. Ms. Tejani stated that the nurse told her that the patient had to call the office and state that they wanted mail order. Ms. Tejani stated that called the patient and told her that her and her husband would need to call the doctors office. Ms. Tejani stated that she called the doctors office and the nurse told her that the patients were given hardcopy prescriptions. Ms. Tejani stated that after calling the patient and verifying that they had the hardcopy prescriptions she processed the prescriptions as verbal prescriptions.

Dr. Foy asked Ms. Tejani if she inputted the prescriptions into the system. Ms. Tejani replied yes.

Dr. Foy asked Ms. Tejani if she was compensated for every patient that she got to use the mail order. Ms. Tejani replied yes.

Dr. Musil asked Ms. Tejani if her calls were monitored. Ms. Tejani replied yes and all equipment belongs to Medco. Ms. Tejani stated that she was fully aware that everything was monitored.

Mr. Milovich asked Mr. Olenik if they were looking for an audit trail. Mr. Olenik stated that they are aware that the faxes were sent and calls went out to the doctor's office. Mr. Olenik stated that there was no indication of a verbal authorization from the offices and prescriptions were entered.

Mr. Olenik stated that the problem came to light when a prescription was entered and the dosage for Proscar was three times daily. The DUR pharmacist made a call to the doctor's office to verify the information. The doctor's office told the pharmacist that they do not fax or give verbal prescriptions. The doctor's office stated that they provided the patient with the hardcopy prescription to mail to the pharmacy. Mr. Olenik stated that an investigation began at that point. Mr. Olenik stated that they are now auditing calls to prescribers. Mr. Olenik stated that previously they audited calls to patients. Mr. Olenik stated that if they receive a verbal prescription now a letter is generated to the prescriber confirming the verbal authorization.

Mr. Milovich asked if there were any other pharmacists with as high of an incentive pay as Ms. Tejani. Mr. Olenik stated that the incentive pay varies and Ms. Tejani did not fall outside of the norms.

Dr. Foy asked if they maintain metric reporting on conversion percentage. Mr. Olenik replied that they do and Ms. Tejani was within the norm.

Dr. Foy asked Ms. Tejani if she ever used her personal phone to call a doctor's office. Ms. Tejani replied that she did use her personal phone to make calls to doctor's offices.

Mr. Haiber asked Ms. Tejani if she used her personal phone to conduct Medco business. Ms. Tejani stated that she used her personal phone to contact patients that she had left a message. Ms. Tejani stated that she did not use her personal phone often.

Mr. Haiber asked Ms. Tejani why she would use her personal phone. Ms. Tejani stated that she used her personal phone for convenience so that she would not have to login to the system.

Mr. Haiber asked Mr. Olenik what is Medco policy on using personal equipment to conduct business. Mr. Olenick stated that employees are to use the equipment provided by Medco for auditing and tracking purposes.

Mr. Haiber asked how verbal orders are tracked. Mr. Olenik stated that when verbal orders are entered into the system they are tagged with the individual's initials and the time and date entered.

Mr. Haiber asked how they identified the patients and prescriptions. Mr. Olenik stated that they listened to the calls to determine if verbal authorization was given and they determined that no verbal authorization was given.

Dr. Musil stated that Mr. Olenik stated that at the time of the incident they did not have a good method to audit the prescriptions. Mr. Olenik stated that at that point they were just auditing the patient calls and not the doctor calls.

Dr. Musil asked how many pharmacists work at home making calls to convert patients to the mail order. Mr. Olenik stated that there are 65 pharmacists.

Dr. Musil asked if Ms. Tejani received any confirmations. Mr. Olenik stated that after listening to the calls they determined that Ms. Tejani had not obtained verbal authorizations for the prescriptions listed.

Mr. Haiber asked if they recorded all calls. Mr. Olenik stated that they record all calls but did not audit the calls to the prescribers. Mr. Olenik stated that they went back and listened to the recordings to determine if authorization was given.

Dr. Foy asked if the 65 pharmacists are evaluated on the number of conversions that they receive. Mr. Olenik replied yes.

Dr. Foy asked Ms. Tejani how the authorizations were entered. Ms. Tejani stated that she does not have an explanation. Ms. Tejani stated that the first one stated was in October which was only 18 days after she started in the role. Ms. Tejani stated that there must

have been a breakdown in communication or mis-interpretation. Ms. Tejani stated that she would not be trying to beat the system after 18 days of being hired. Ms. Tejani stated that she was not struggling for her numbers and she cannot defend herself.

Dr. Foy asked Ms. Tejani how many times it happened. Ms. Tejani replied that it happened twice. Ms. Tejani stated that the office would not give verbal authorization and it was an obstacle for the patient to get prescriptions from the mail order.

Dr. Musil asked Ms. Tejani how long she has practiced in Arizona. Ms. Tejani stated that she has practice in Arizona for 6 years.

Dr. Musil asked Mr. Olenik if the prescriptions have also been filled at the local pharmacy. Mr. Olenik stated that he does not have that information.

Dr. Musil asked Ms. Sutcliffe about the information she received. Ms. Sutcliffe stated that the doctors signed a statement indicating that they did not provide verbal prescription orders to Medco for the medications listed on the profile.

Mr. Haiber asked Ms. Tejani about her comment that different pharmacies have different rules. Ms. Tejani stated that she felt that there was some leeway. Ms. Tejani stated that she believed that the pharmacist should act in their best judgment. Ms. Tejani stated that the patient would run out of medication and would be forced to obtain the medication from the retail pharmacy at a higher price. Ms. Tejani stated that she knew that they had the prescription and mailing the prescription would cause a further delay in the patient receiving their medication. Ms. Tejani stated as a result she made the decision that she did.

Dr. Foy asked how the patient would run out of medication when they had a prescription that they could fill at the pharmacy. Ms. Tejani stated that she was trying to prevent the patient from running out of medication because they wanted to receive their medication from the mail order.

Dr. Foy again reiterated that there was no risk of the patient running out of medication because they could have the hardcopy prescription filled. Ms. Tejani stated that she did it for convenience.

Mr. Haiber stated that jeopardizing her license and job to break a law because of savings and delay went too far on using her professional judgment.

Ms. Locnikar asked if all 53 patients had prescriptions at the retail pharmacy. Mr. Olenik replied yes.

On motion by Mr. Milovich and seconded by Dr. Musil, the Board unanimously agreed to offer Ms. Tejani a consent agreement with the following terms: a \$1,000 fine and 6 hours of continuing education (CE) on law to be completed in 90 days. If the consent is not signed, the case will proceed to hearing.

Conference 4 – Complaint #3956

The following individuals were present to discuss the complaint:

Kelly Seabloom – Pharmacist In Charge – Respondent

Sunwest Pharmacy (Yuri Eidelman-Owner) - Respondent

President Haiber asked Ms. Sutcliffe to give a brief overview of the complaint.

Ms. Sutcliffe stated that during a routine inspection of the pharmacy she noted that there were several medications having labels printed primarily in Russian. Ms. Sutcliffe stated that the medications were displayed in front of the pharmacy counter and stored in drawers in back of the pharmacy. Ms. Sutcliffe stated that the information she was given that day was that the medications were all over the counter medications and were being sold as such. Ms. Sutcliffe stated that the pharmacy employed a clerk who spoke/read Russian and handled the sales. The pharmacy stated that they purchased the products from OM Fusion in New York. Ms. Sutcliffe stated that she checked the Board's database and the wholesaler did not hold a valid Arizona permit. Ms. Sutcliffe stated that the pharmacy also identified an additional wholesaler as ATE Nutritionals. Ms. Sutcliffe stated that this wholesaler also does not hold a permit to ship to Arizona. The pharmacy pulled all products from the two wholesalers to return. Ms. Sutcliffe stated that she made an attempt to translate the invoices. Ms. Sutcliffe stated that she identified 10 items that were prescription only items. Ms. Sutcliffe stated that the FDA requested information concerning the wholesalers and the imported products.

Mr. Haiber asked the respondents to address the complaint. Mr. Eidelman stated that he is the owner of the pharmacy. Mr. Eidelman stated that as owner he should have accepted more responsibility in what was being done. Mr. Eidelman stated that he thought that the products that the employee was purchasing were dietary products. Mr. Eidelman stated that the products were imported and they were assured that the products were approved by US Customs. Mr. Eidelman stated that they had been dealing with OM Infusion for approximately 5 months. Mr. Eidelman stated that he terminated the employment of the clerk who ordered the products because she did have permission to order from the new company. Mr. Eidelman stated that the companies stated that they did not have to be licensed in Arizona because they only sold nutritional products. Mr. Eidelman stated that it is his fault because he did check with the Board. Mr. Eidelman stated that he purchased about \$2,000.00 worth of medication from OM Infusion. Mr. Eidelman stated that they have returned the products.

Ms. Seabloom stated that she started in February as Pharmacist in Charge and the products were on the shelf at that time. Ms. Seabloom stated that the pharmacy had been inspected previously and nothing was noted so she assumed that it was okay. Ms. Seabloom stated that she did not go through every shelf in the pharmacy.

Mr. Haiber asked Ms. Seabloom if she spoke Russian. Ms. Seabloom replied no.

Mr. Haiber asked Mr. Eidelman why he ordered the products in Russian. Mr. Eidelman stated that they were driven to order the products by their customers who were from Russia.

Mr. Haiber asked what position Megan Connor held. Mr. Eidelman stated that she was the pharmacy manager and was not the individual that ordered the Russian products.

Dr. Foy asked Ms. Sutcliffe if she was able to tell how much was sold. Ms. Sutcliffe stated that she was not able to tell because the invoices were in Russian.

Dr. Foy asked Mr. Eidelman how much was sold. Mr. Eidelman stated that they sold less than \$2,000 in 6 months.

Dr. Foy asked Ms. Seabloom if she sold any of the Russian product. Ms. Seabloom stated that she did not.

Dr. Foy stated that looking at the boxes of some of the products it is clear that they are prescription items. Ms. Seabloom stated that in her defense prior to becoming the Pharmacist in Charge she only worked one day a week at the pharmacy for the first month. Ms. Seabloom stated that when they were notified by Sandra that they should not be selling the products they were immediately removed.

Dr. Foy asked what is the average cost of one of the products. Mr. Eidelman stated that the average cost is two to three dollars. Dr. Foy noted that they sold a lot of products if they sold about \$2,000 worth of merchandise.

Dr. Foy stated that the products could have been adulterated or are illegal to be sold in the US.

Mr. McAllister asked Ms. Seabloom if she was aware of the products when she took over the pharmacy. Ms. Seabloom stated that she saw some Russian products on the shelves but did not analyze the products and did not research until Sandra pointed out the products to her.

Mr. McAllister stated that Ms. Seabloom is responsible for the pharmacy. Ms. Seabloom stated that there were two previous Pharmacists in Charge and it was never brought to their attention.

Dr. Musil asked Mr. Eidelman to describe his process for when he orders from the wholesalers. Mr. Eidelman stated that he only orders from approved wholesalers. Mr. Eidelman stated that they order from 5 wholesalers with McKesson being their primary wholesaler. Dr. Musil asked how they approve their wholesalers. Mr. Eidelman stated that they obtain copies of their license and insurance certificate and keep those copies in the Pharmacy.

Dr. Musil asked how ATE Nutritionals was approved if they did not have a license with the Board. Ms. Seabloom stated that they are no longer purchasing items from them. Mr. Eidelman stated that he approves the companies that they purchase product from.

Dr. Foy asked Ms. Sutcliffe if she looked at any other products to determine their legitimacy. Ms. Sutcliffe stated that she did not see any other products that she felt were not appropriate during the rest of the inspection.

Mr. Milovich asked Ms. Seabloom when she started in the pharmacy. Ms. Seabloom stated that she worked one day a week in November which was usually Saturdays. Ms. Seabloom stated that she worked Fridays in January and February. Ms. Seabloom stated that when the Pharmacist in Charge left due to medical problems she took over the position.

Mr. Milovich asked Ms. Seabloom if she knew that the Russian products were present. Ms. Seabloom stated that in the little time that she was there she did know that there were some Russian products in the pharmacy.

Mr. Wand stated that several of the products, such as Ampicillin and Nitrofurantoin, are prescription products unless they are not marked Rx Only such as those sold in pet stores for aquarium use. Mr. Wand stated that they may not have the Rx Only marking on them because they are in Russian. Mr. Wand stated that the products may not be prescription drugs but they are unapproved products.

On motion by Mr. Haiber and seconded by Dr. Foy, the Board unanimously agreed to meet in Executive Session.

President Haiber called the regular session back to order.

Mr. Haiber asked if the Russian lady that was terminated was a technician. Ms. Seabloom stated that she believed that she was a technician trainee.

Dr. Foy noted that Corvalol contains Phenobarbital. Mr. Eidelman stated that the product he obtained did not contain Phenobarbital.

Dr. Musil pointed out that the Diclofenac package contained the letters Rx on the package.

Mr. McAllister stated that any pharmacist could have looked at the package and determine that it was a prescription item.

On motion by Mr. McAllister and seconded by Mr. Haiber, the Board unanimously agreed to offer a consent agreement to the permit holder with the following terms: a fine of \$1,000 for each violation (ten products) for a total of \$10,000, the permit will be on probation for one year, and there will be 2 unannounced inspections at the permit holders expense. If the consent is not signed, the case will proceed to hearing.

On motion by Mr. McAllister and seconded by Mr. Haiber, the Board unanimously agreed to offer a consent agreement to the Pharmacist in Charge with the following terms: a fine of \$1,000, 90 days probation, and 6 hours of continuing education in law to be completed in 90 days. If the consent agreement is not signed, the case will proceed to

hearing.

AGENDA ITEM 21 – Call to the Public

President Haiber announced that interested parties have the opportunity at this time to address issues of concern to the Board; however the Board may not discuss or resolve any issues because the issues were not posted on the meeting agenda.

No one came forth.

AGENDA ITEM 23 – Adjournment

There being no further business to come before the Board, President Haiber adjourned the meeting at 1:35 P.M.